

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

HOME STATE COUNTY MUTUAL
INS. CO.

V.

UNITED STATES OF AMERICA

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Civil Action No. 6:25-cv-22

COMPLAINT

COMES NOW Plaintiff, Home State County Mutual Ins. Co., by and through its attorney-in charge, Jason E. Wells, complaining of the above named Defendant, United States of America alleging upon information and belief as follows:

PARTIES

1. Plaintiff is a domestic insurance company doing business in Texas and is a proper party to this lawsuit as subrogee of Alexandria Jo Nieto, a Texas resident. Plaintiff paid insurance benefits to or on behalf of its insured as a result of the incident made the basis of this lawsuit and, therefore, is subrogated to such insured's interests with respect to those damages.

2. Defendant, United States of America, may be served pursuant to the Federal Rules of Civil Procedure by serving a copy of both the summons and the complaint to the following via certified mail, return receipt requested on: 1) the civil process clerk for the United States Attorney for the Northern District of Texas, Leigha Simonton, at the U.S. Attorney's Office, Northern District of Texas, 1100 Commerce St., Room 1452, Dallas, Texas 75242; 2) The Honorable Pamela Bondi, the U. S. Attorney General, Department of Justice, 950 Pennsylvania Avenue, N. W., Washington,

D.C., 20520-0001; and, 3) General Counsel and Executive Vice President of the United States Postal Service, Thomas J. Marshall, at 475 L'Enfant Plaza S.W., Washington, D.C., 20260-0010.

JURISDICTION

3. The court has jurisdiction over the lawsuit under 28 U.S.C. §1346(b) because the suit involves a claim against the United States for property damage caused by the negligent acts of a United States Postal Service employee while acting within the scope of his employment. Specifically, Jayleah Tenée Everitt, an employee of the United States Postal Service, failed to yield the right of way and ran into Plaintiff's insured vehicle.

VENUE

4. Venue is proper in this district under 28 U.S.C. §1402(b) because the act or omission complained of occurred in this district. Specifically, the motor vehicle accident occurred at the intersection of FM 765 and Olsak Rd., Tom Green County, Texas.

CONDITIONS PRECEDENT

5. All conditions precedent have been performed or have occurred. Plaintiff timely presented this claim in writing to United States Postal Service. Claim for Damage, Injury, or Death, Standard form 95 (OMB No. 1105-0008) was sent to the United States Postal Service on August 4, 2023. On October 24, 2023, Plaintiff received correspondence from the United States Postal Service tort claims coordinator stating no additional information needed to consider the present claim.

FACTS OF THE CASE

6. On or about February 12, 2023, at approximately 12:00 p.m., at the intersection of FM 765 and Olsak Rd., in Tom Green County, Texas, Jayleah Tenée Everitt, a Carrier Associate operating a motor vehicle in the course and scope of her employment with the United States Postal Service,

failed to yield the right of way and struck the Plaintiff's insured vehicle, causing the damages sought herein. The investigating officer determined Defendant's Carrier Associate to be the sole cause of this incident.

7. As the result of the negligent conduct of the Defendant, Plaintiff's insured was caused to incur damages which were paid by Plaintiff under the terms of a policy of insurance existing between Plaintiff and its insured, thereby subrogating Plaintiff to its insured's right of recovery therefore.

FIRST CLAIM FOR RELIEF AGAINST DEFENDANT
(FEDERAL TORT CLAIMS ACT)

8. Plaintiff repeats and re-alleges paragraphs 1 through 7 as if set forth at length herein.

9. At the time of the accident, Ms. Everitt was operating a United States Postal Service vehicle in the course and scope of his employment with the United States Postal Service. Ms. Everitt had a duty to Plaintiff's insureds to exercise ordinary care and operate the vehicle reasonably and prudently. Ms. Everitt breached that duty in one or more of the following ways:

- a. Failing to timely apply the brakes;
- b. Failing to maintain a proper lookout;
- c. Failing to turn the vehicle to avoid the collision; and
- d. Failing to yield the right-of-way.

10. The United States is vicariously liable for the acts of its negligent employee, Ms. Everitt, because they occurred in the course and scope of her duties with the United States Postal Service.

DAMAGES

11. As the proximate result of Defendant's Associate Carrier's breach of various legal duties, Plaintiff (by and through its insured) has reasonably and necessarily incurred damages in the amount of \$17,761.27, comprised of cost of repair and towing damages

12. The sum reasonably represents the difference in the actual cash value of Plaintiff's insured vehicle, in Tom Green County, Texas, immediately before the accident (\$18,593.00) versus immediately after the accident (\$831.73, as determined at salvage estimate.).

PRAYER

13. For these reasons, Plaintiff asks for judgment against Defendant for the following:

- a. Actual damages of \$17,761.27.
- b. Pre-judgment and post-judgment interest.
- c. Costs of suit.
- d. All other relief the Court deems appropriate.

Respectfully submitted,

By: /s/ Jason E. Wells
Jason E. Wells
State Bar No. 24066279

THE FUSSELMAN LAW FIRM, PC
1616 South Voss Rd., Ste. 775
Houston, Texas 77057
Email: jwells@thefusselmanlawfirm.com
(713) 960-1619
(713) 960-1430 (fax)

**ATTORNEY IN CHARGE
FOR PLAINTIFF**

CERTIFICATE OF SERVICE

I certify that there is no other party to serve with a true and correct copy of Plaintiff's Designation of Local Counsel Pursuant to Local Rule 83.10 as of the date of this filing, February 24, 2025.

/s/ Jason E. Wells
Jason E. Wells